
SECTION TWO - DIRECTIVES

DPR's LEGAL AUTHORITIES

The following statutes and regulatory authorities govern the relationship of the department to cooperating associations. There are other statutes and authorities which an association may become involved with.

California State Park and Recreation Commission
Policy Number 26, Interpretation (Amended 3-11-77)

"The Department of Parks and Recreation shall interpret the units of the State Park System. Information shall be presented objectively and in accordance with the highest standards of the profession.

A quality interpretive experience is essential to assure public understanding, appreciation, and concern for the environment. Programs shall be easily available, tailored to diverse human needs, and meaningfully structured. The interpretive programs will relate to the natural, cultural, and recreational resources of the park system.

In the planning, development, and implementation of interpretive programs in the units of the State Park System, the Department of Parks and Recreation shall identify and emphasize all interpretive values and features for each unit by requiring the preparation of both an "interpretive prospectus" and an "interpretive plan."

For each historical unit, all features and circumstances which make the unit important will be identified, and the primary period within which human activities or events were of the greatest significance will be established. Preservation and interpretation need not be restricted to that period but will be related to it in emphasis and action.

A continuous effort must be maintained to assure that all personnel of the Department of Parks and Recreation, including seasonal employees, are oriented and appropriately trained in the significant natural, cultural, and recreational values of the State Park System, and enthusiastically carry out the documented interpretive programs of the department."

Public Resources Code (PRC) Section 5003

"The department shall administer, protect, develop, and interpret the property under its jurisdiction for the use and enjoyment of the public. Except as provided in Section 18930 of the Health and Safety Code, the department may establish rules and regulations not inconsistent with law for the government and administration of the property under its jurisdiction. The department may expend all moneys of the department, from whatever source derived, for the care, protection, supervision, extension, and improvement of development of the property under its jurisdiction."

SECTION TWO - DIRECTIVES

Public Resources Code (PRC) 513

"The department, as a means of furthering the interpretive and educational functions of the State Park System, may enter into agreements to act cooperatively with such private nonprofit scientific or historical associations engaged in educational or interpretive work in the state park system units as the director may designate whereby the association would furnish educational or interpretive materials for sale and the department would provide the services of department personnel and space for the materials at state park system unit visitor information facilities. Subject to such rules and regulations as the director shall promulgate, all moneys received from the sale of publications or other materials provided by an association shall be returned to the association for use in the interpretive or educational programs of the state park system unit or units which the association has been designated to serve."

Public Resources Code (PRC) 5010.1

"(a) All fees, rents, and other returns for the use of any state park system area are the property of the state or the public agency operating a state park system area pursuant to an agreement entered into pursuant to Article 2 (commencing with Section 5080.30) of Chapter 1.2. However, whenever significant savings can be achieved by the department or operating public agency, the department or public agency may enter into a contract with a concessionaire, lessee, or other natural person, corporation, partnership, or association for the collection of fees, rents or other returns on behalf of the state or the public agency. The contract may provide for the retention of a portion of any fee, rent, or other return as reimbursement for the cost of collection.

(b) Whenever significant savings can be achieved, the department may enter into a contract with any natural person, corporation, partnership, or association for the operation of a reservation system for the state park system and for the collection of state park fees in connection therewith. The contract may provide for the retention of a portion of every fee or the imposition of a surcharge as reimbursement for the cost of providing that service."

SECTION TWO - DIRECTIVES

STATUTES GOVERNING NONPROFIT CORPORATIONS

The following summary descriptions are of the two primary statutes affecting a cooperating association's incorporation, business operations, and reporting requirements. There are other statutes which an association may become involved with.

California Corporations Code

Section 5110 et seq., The Nonprofit Public Benefit Corporation Law

These are the statutes that apply to nonprofit corporations, their directors and officers, and to charitable trusts and trustees. The statutes include corporation formation, periodic filing and reporting, business operations, changes in purpose or status, and disposition of assets. In addition, Section 5239 addresses the protection offered to directors and officers if they obtain liability insurance.

California Labor Code

Workers' Compensation, Division 4, Article 2, Employees

Section 3363.6. Persons performing voluntary services for private nonprofit organization.

- (a) Notwithstanding Sections 3351, 3352, and 3357, a person who performs voluntary service without pay for a private, nonprofit organization, as designated and authorized by the board of directors of the organization, shall, when the board of directors of the organization, in its sole discretion, so declares in writing and prior to the injury, be deemed an employee of the organization for purposes of this division while performing such service.
- (b) For purposes of this section, "voluntary service without pay" shall include the performance of services by a parent, without remuneration in cash, when rendered to a cooperative parent participation nursery school, if such service is required as a condition of participation in the organization.
- (c) For purposes of this section, "voluntary service without pay" shall include the performance of services by a person who receives no remuneration other than meals, transportation, lodging, or reimbursement for incidental expenses.

SECTION TWO - DIRECTIVES

REGULATORY AGENCIES GOVERNING NONPROFIT CORPORATIONS

The following summary descriptions are of the primary governing agencies that regulate the activities of cooperating associations in California. There are other agencies which an association may become involved with.

Internal Revenue Service

Exemption from federal income tax is basic to association operations. Such exemption is based on Section 501(c)(3) of the Internal Revenue Code. Application for tax-exempt status should be made, and annual reports filed.

Section 501(c)(3) of the code provides for exemption from federal income tax of organizations organized and operated exclusively for charitable or educational purposes.

Section 501(c)(3) - 1(d)(3) of the regulations defines the term "educational" as including instruction of the public on subjects useful to individuals and beneficial to the community.

By publishing and distributing educational materials that further the educational program of the State Department of Parks and Recreation, the organization is instructing the public on subjects useful to individuals and beneficial to the community. The organization's other activities of assisting the State Department of Parks and Recreation in carrying out its programs in the parks are charitable, since these activities are a means of advancing education and science.

Franchise Tax Board

In California, associations must collect and remit sales taxes. Property taxes also are applicable. The Cooperating Associations Liaison (CAL) and the association board should be knowledgeable of state and local requirements. If in doubt, it is wise to consult Franchise Tax Board officials and/or a tax attorney.

State authorities also generally require associations to report on their operations periodically. Ignorance of applicable tax laws (federal, state, and/or local) is no excuse for failing to make such reports, and could result in financial penalties.

State Compensation Insurance Fund Workers' Compensation Insurance

Paid employees of a cooperating association should be covered by workers' compensation insurance. Check with the local State Compensation Insurance Fund for requirements and names of carriers and rates. Also, refer to the Government Code, Article 2, Section 3363.6: "Persons performing voluntary services for private nonprofit organizations."

State Unemployment Insurance

Associations are required to pay into the State Unemployment Insurance Fund for each of their paid employees.

State Disability Insurance

Associations are required to pay into the State Disability Fund for each of their paid employees. These funds are collected by the state as part of payroll taxes.

Board of Equalization

California requires a license for retail sales irrespective of nonprofit status; generally, such licenses are to be displayed in some prominent location. Inspections are made periodically. Noncompliance with state sales tax laws can result in substantial fines. The State Board of Equalization is responsible for oversight of this program.

Attorney General (A.G.) Registry of Charitable Trusts

The Attorney General (A.G.) acts as the legal overseer of California charities. This office has the duty of protecting the interests of all public beneficiaries of charities in the state. The A.G. may conduct investigations and bring legal actions to protect the assets of California charities, and ensure that the assets are used for their intended charitable purposes.

California charities register and file annual financial reports with the A.G.'s Registry of Charitable Trusts. The A.G.'s office provides information and assistance to many individuals who serve as directors, officers, volunteers, fundraisers, accountants, and attorneys for charitable organizations.

Due to the dramatic growth in the number of charities operating in California, and the large increase in public requests for information, the A.G.'s office publishes a guide for charitable organizations: Attorney General's Guide for Charities, 1988. This is available on request from the A.G.'s office, and is also included in this manual.

Secretary of State

This agency is responsible for oversight of nonprofit organizations incorporating in California. Organizations submit proposed "articles of incorporation." If the articles satisfy the requirements of the corporations code, the Secretary of State will endorse the organization as a California public benefit corporation.

SECTION TWO - DIRECTIVES

State Department of Alcoholic Beverage Control (ABC)

This agency is responsible for oversight of sale and distribution of alcoholic beverages. In all cases involving sale of alcoholic beverages, the permittee must obtain a license to sell alcoholic beverages from the ABC before the scheduled event. The permittee must allow sufficient lead time for both the department and ABC procedures to be completed.

In general, sale of alcoholic beverages in State Park System units is a compatible activity. However, consideration is given to on-premises sale of beer and wine with bonafide meals, in conjunction with a special event.

For detailed discussion, see the department's Operating Manual (DOM) 1750.4 and Park and Recreation Commission Policy Number 28. For information on sale of alcoholic beverages at special events, refer to the instructions in DOM 1400.

Department of General Services (DGS)

Government Code Section 14615 vests in the Department of General Services general powers of supervision over matters concerning the financial and business policies of the state. The courts of this state place the responsibility with DGS to conserve the financial interests of the state, to prevent, so far as possible, any imprudent acts by the entities of the state.

In DGS, the Office of Legal Services conducts review, approval, and monitoring of state contracts, including those entered into by the state with nonprofit corporations (State Administrative Manual, Section 1200 et seq., Contracts). Generally, prior to recommending approval of a state contract, DGS review is guided by the evidence offered in support of these considerations:

That valid justification for entering into and executing an agreement exists;

That state law and policy have been properly and uniformly applied;

That the contract contains required authorizations and has received all necessary permission needed for final execution; and

That the interests of the state have been protected fully.

California State Park and Recreation Commission

The function of the commission and the State Department of Parks and Recreation is to acquire, protect, develop, and interpret for the inspiration, use, and enjoyment of the people of the state a balanced system of areas of outstanding scenic recreational and historic importance.

Public Resources Code Sections 535, 539, and 540 provide that the commission study recreation in California, and recommend a comprehensive recreational policy for the state. The commission reports on and recommends to the governor needed recreational and park facilities at the state and local level. It establishes general policies for the guidance of the director of parks and recreation in administration, protection, and development of the State Park System.

SECTION TWO - DIRECTIVES

Department of Parks and Recreation

To further the interpretive and educational functions of the State Park System, the department enters into agreements to act cooperatively with organizations engaged in educational or interpretive work in State Park System units. The department's Cooperating Associations Program Manual (CAPM) is the official policy of the department relative to this program. The CAPM and the contract regulate the activities of an association in conjunction with park operations.

SECTION TWO - DIRECTIVES

AUTHORIZATION TO ENTER INTO A CONTRACT WITH A NONPROFIT CORPORATION

Public Resources Code (PRC) Section 513 is the enabling legislation permitting the department to enter into contracts with nonprofit corporations that exist to further: "...the interpretive and educational functions of the State Park System..."

PRC Section 513 defines the relationship and scope of activity between the department and the associations to further: "...the interpretive and educational functions of the State Park System..." PRC Section 513 is the focal point for the department and a cooperating association in evaluating their activities and relationship.

Contract

The contract signed by an association chair/president and the director of the State Department of Parks and Recreation defines the authorities and responsibilities of both parties. The Cooperating Associations Program Manual (CAPM) is official policy of the state, and is accepted as such by the association.

The association and the department will enter into a contract for all business operations in the park(s). The contract constitutes the entire agreement between the parties, and supersedes any and all prior oral or written agreements or understandings between them.

The association articles of incorporation, bylaws, and all other legal and business documents will comply with federal, state, and local requirements; current copies of such documents will be provided to the department. Association nonprofit status will be maintained in accordance with all applicable federal and state laws.

State Administrative Manual

The State Administrative Manual (SAM), Section 1200 et seq., Contracts, describes the general procedures to be followed before a state agency may enter into a contract. State Department of Parks and Recreation personnel who wish to enter into contracts with nonprofit corporations should be aware of these requirements, including those described in SAM, Section 1253, Corporate Qualification To Do Business In California, as follows:

1. In order to ensure that all obligations due the state are fulfilled, when contracts are to be performed in the state by corporations, the contracting agencies should obtain verification that the contractor is currently qualified to do business in California.

2. "Doing business" is defined in Revenue and Taxation Code Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

SECTION TWO - DIRECTIVES

While there are some statutory exceptions to taxation, it will be a rare instance when a corporate contractor performing in the state will not be subject to the franchise tax.

3. Both domestic and foreign corporations (those incorporated outside California) must be in good standing in order to be qualified to do business in California. Whether a corporation is in good standing may be determined by calling the Office of the Secretary of State, and giving the corporate name in full.
4. Contracting and approving agencies may obtain assistance in evaluating a contractor's claim of exemption from the Franchise Tax Board. Inquiries should be directed to Corporation Audit.

SECTION TWO - DIRECTIVES

CONTRACTED USE OF STATE-OWNED FACILITIES

1. The department may provide facilities to be used or occupied by the association for the purpose of carrying out a contract's terms. These items should be negotiated in accordance with local needs.
2. All districts need to negotiate a provision for utilities and maintenance in accordance with local needs. The department may provide the association with incidental utility services at each assigned facility, including water, electricity, heat, air conditioning, and phone, as required for the operation. The department may provide the association all general maintenance and repair services for state-owned buildings.
3. The department will have emergency access to all facilities on state property, and will have the right to make inspections of all facilities as necessary.
4. On reasonable notice, the land or facilities in the park used or occupied by the association may be, from time to time, designated or redesignated by the department.
5. No construction, alteration, repair, reconstruction, restoration, or improvement may be made in the park by the association without first obtaining approval for any plans, specifications, and contracts from the department.
6. All improvements, alterations, and restored facilities constructed by an association on state property become the property of the State of California. The department will not be responsible for the cost of such improvements, alterations, and restorations. Title to all improvements will be vested in the state immediately on their becoming affixed to state real property. These items should be negotiated in accordance with local needs.
7. On state-owned property, the department will establish association business hours of operation (sales) and standards of service.
8. On state-owned property, the department will direct all interpretive activities conducted and/or sponsored by the association to meet department standards.

State Vehicles

1. State vehicles and equipment are for official use only.
2. Only DPR employees and authorized DPR volunteers are permitted to use state vehicles.
3. Association employees or association volunteers will not use state vehicles for association business.

DPR Safes

1. All association documents (articles of incorporation, bylaws, designation letter, IRS tax-exempt forms, etc.) must be accessible for inspection. Bank safety deposit boxes or association-owned safes are recommended.

SECTION TWO - DIRECTIVES

2. Adequate security is essential. Park safes are not to be used without the CAL's approval, and then only if the association documents and/or funds are in a separate and locked container.
3. A document signed by the CAL will grant permission and designate association or park personnel access to the safe. All attempts should be made to limit access to only those with absolute need. Special keys, limited distribution of combinations, sign-in/sign-out logs, and similar precautions will reduce potential problems.

SECTION TWO - DIRECTIVES

DPR INSURANCE REQUIREMENTS

Associations that contract with the State Department of Parks and Recreation are required to obtain comprehensive general liability insurance to cover association personnel.

General liability coverage will be consistent with the California Corporations Code, Section 5110 et seq., The Nonprofit Public Benefit Corporation Law, and the requirements of the State Administrative Manual (SAM), Section 1254, Insurance Requirements.

The department, under authority of SAM 1254.6, can require in its contracts the type of insurance it deems appropriate to protect the state's interests. The department requires the following association coverage:

An association with an annual budget (gross revenue) of less than \$50,000 is required to obtain general liability insurance coverage of \$500,000 minimum.

An association with an annual budget (gross revenue) of \$50,000 or more is required to obtain general liability coverage of \$1,000,000 minimum.

DPR Contract Insurance Requirement

The association will procure liability insurance as described in the Cooperating Association Manual.

The association will indemnify, save, hold harmless, and defend the State of California against all fines, claims, damages, losses, judgments, and expenses arising out of, or from, any omission or activity of the association, only in connection with its activities not co-sponsored by the department. The State of California, its officers, agents, employees, and servants are included as additional insured.

The association will furnish to the department a certificate of insurance stating that there is liability insurance currently in effect for the amounts specified above.

Important Issues For Associations To Consider

Associations cannot dissolve when faced with lawsuits to escape liability (if an association does dissolve, a plaintiff can sue the directors/officers).

One million dollars liability coverage is an established insurance industry standard.

SECTION TWO - DIRECTIVES

Premium costs will depend on risk as determined by insurance brokers' research, based on the activities of the association as a corporation.

Associations unable to carry the financial burden of this requirement will need to assess alternatives: pool resources with similar associations, or merge into an association that can meet this legal requirement. Since the state covers approved volunteer activities, insurance of the type required is very affordable.

The specifics of insurance and liability, as it affects an association, should be considered by each board of directors as permanent, constantly evolving issues requiring their full attention.

Optional Insurance Coverage To Consider

Guideline

Owned And/Or Non-Owned Automobile
Property Damage (against crime and/or fire)
Directors And Officers (Errors And Omissions)
(This should include wrongful termination coverage)
Miscellaneous Professional Liability
Product Liability

Prevention Is The Best Defense

Guideline

Prevention should be undertaken as a complement to (not in place of) adequate insurance coverage.

The insurance term for prevention is risk management. Risk management covers a variety of activities that can help reduce the association's exposure and insurance costs.

In general, avoid using personnel in high-risk assignments, provide adequate training and supervision for tasks, and maintain clear records of all activities.

Specifically, every association, at a minimum, should employ the following risk management strategies:

1. Regular inspection of all premises and properties for potential safety hazards of all types.
2. Training of directors and employees in proper safety practices.
3. Precise documentation of all accidents and their circumstances.
4. Swift reporting of all incidents potentially resulting in legal action to the association's insurance representative.
5. Thorough analysis of all such incidents in order to determine what changes might be made to prevent or reduce the risk of repeat occurrences.

SECTION TWO - DIRECTIVES

PUBLIC RESOURCES CODE (PRC) SECTION 5010.1 CONSIDERATIONS

The following is an outline for department staff and cooperating associations in use of the PRC Section 5010.1 option. These considerations examine the need for entering into an agreement (MOU) with a cooperating association for fee collection purposes.

Have all options been considered:

- Redirection of funds toward expanded entrance station operations.
- A budget submission [BCP = Budget Change Proposal] in attempt to obtain seasonal dollars for fee collection. Normal guidelines are a 4:1 ratio of expended costs to capture revenue.
- No increased collection of marginal return, i.e., dollars to capture revenue are equal or almost equal to dollars expended.

PRC Section 5010.1 is an available alternative only when all other options are not possible, and fee collection is imperative.

The state may not enter into an agreement allowing associations to collect fees if this agreement results in the association taking over operation of an established state park function.

Fee collection may not supplant state employees, only augment or expand operation beyond that possible with existing staff (i.e., before and after normal hours, at locations not now collecting, during "off-season" periods when collection personnel are not available).

Fee collection must show a net State Park and Recreation Fund [SPRF] gain over normal revenue collection to justify the program.

Fee collection should enhance park operations beyond revenue collection alone:

- Provide positive increased public contact.
- Potential for decreased vandalism by coverage increase.

Once a decision is made to approach an association with an MOU request for fee collection, evaluate whether the association has the resources to meet a this commitment.

- Can the association meet the need?
- Is the association willing to expand beyond its original contract?

Both district and department approval is required. Final MOU approval rests with the director of parks and recreation.

The department's representative will write a letter to the association requesting that the association consider a fee collection MOU to "ease the burden of government," per IRS regulations.

The association's board of directors must vote and show in its minutes that it is willing to

SECTION TWO - DIRECTIVES

assist government beyond the normal association role.

The first MOU will not exceed a six (6)-month trial period, at which time the program will be evaluated as to criteria set forth in the MOU.

- If either party's expectations are not met, there should be no continuation of the MOU.
- The MOU does not have automatic renewal.
- Although negotiable, a subsequent MOU should generally not exceed one (1) year in length.
- The MOU must be separate from the association's contract.

Weigh the Benefits -- an MOU must be evaluated to ensure that it is worth pursuing.
Is there a:

- net gain to the State Park and Recreation Fund [SPRF]?;
- net gain to the association for expenditure in the district?

SECTION TWO - DIRECTIVES

PUBLIC RESOURCES CODE (PRC) SECTION 5010.1 MEMORANDUM OF UNDERSTANDING (MOU) OUTLINE

The following is an outline for department staff and cooperating associations in the use of a PRC Section 5010.1 Memorandum of Understanding (MOU).

Grant and description

- of premises are subject to all valid and existing contracts, leases, licenses, encumbrances, and claim of title.

Term of MOU

- Initial MOU - six (6) month trial period.
- Maximum terms of subsequent MOU - generally in one (1)-year increments.

Collection

- Percent payment to state of total amount of revenue collected.
- Base amount collected.

Services provided may consist of:

Kiosks
Collection of fees
Housekeeping
Other

Records

- Required to keep true and accurate books and records
- State has right to examine association books, records and tax returns

Use of premises

- Services will be provided when collection would not be practical, possible, or convenient for the state.
- To be determined by the state.
- The association agrees to provide or require:
 - Collections of all standard state park fees.
 - Uniforms for each association-paid employee or volunteer.
 - Use of subject premises only for purpose set in MOU.
 - A competent person available at all times while in operation.
- Employees will be under general supervision of the Cooperating Association Liaison (CAL).
- District supervisory staff, under the direction of the district superintendent, may direct the operation of collection tasks.

Termination of MOU

- The MOU will cease to exist and terminate if any of the terms, agreements, conditions, or covenants are breached, or the association becomes insolvent.

SECTION TWO - DIRECTIVES

- The association will vacate the premises within ninety (90) days after the MOU is terminated.

Maintenance by the association

- Will keep all grounds, yards, and lands free from rubbish and other unsanitary matter.
- Will make no alterations or changes without approval of state.
- Will comply with the district superintendent's instructions.
- Signs, advertising, and approval of names are subject to permission of the department's representative to the association.

Modification of the MOU

- The parties may, by mutual consent, agree to modification, additions, or termination in writing.
- The state can grant reasonable extensions to a MOU time limit not to exceed ninety (90)-day increments.

Assignments

- No transfer of assignments that affect this MOU can be made unless first consented to in writing by the state.

Duration of public facilities

- The state makes no stipulation as to type, size, location, or duration of public facilities to be maintained at these units, or continuation of state ownership.

Photography

- The state may grant permits for use of premises for production of still and motion pictures and related activities when such permission will not interfere with the primary business of the MOU.

Nondiscrimination

- In performance of this MOU, the association will not discriminate against any employee or applicant for employment, in accordance with the association's contract provisions.

Employee training

- All association employees are to receive an orientation on the State Park System, the unit in which the association operating is located, and the local points of interest which will permit employees to reply adequately to inquiries from the visiting public.
- The employee orientation program is subject to the approval of the district superintendent.

SECTION TWO - DIRECTIVES

State's district superintendent

- The district superintendent is the state representative in direct charge of the district.
- The district superintendent, or designee, is charged with day-to-day administration of this MOU, and is the initial contact with the state for information and questions on MOU performance.

Agreement in writing

- The MOU contains the entire agreement between the parties for the purpose of collecting fees.
- Request for changes or modification can be made only in writing. Changes or modifications can be made only with agreement between the parties. The changes or modifications are to be acknowledged by the state.

Transfer guidelines

- The MOU is an interim function until such time as resources are made available for transfer of MOU provided services and functions to DPR personnel.

SECTION TWO - DIRECTIVES

CONFLICT RESOLUTION PROCESS GUIDELINES

This conflict resolution process is a last resort.

Conflicts are those significant matters that arise between the individual associations and the department. This process is not for individual concerns or complaints, but for the broader concerns of an entire association or the department.

The department and associations must make every effort to resolve their differences informally. The formalization of the process begins when informal efforts have failed. The intent of this process is to resolve conflict at its lowest level, in the most expedient manner.

This process may be initiated by either party -- an association or the department.

The association and the department should designate a representative to present its issues (i.e., an association board member; the department's local representative, usually the CAL).

All time frames in this proposal may be extended by mutual agreement of the concerned parties.

First Formal Appeal:

The appellant will submit his/her appeal in writing to the other party.

The respondent (i.e., the department representative or the association representative) must reply in writing within fifteen (15) working days of receipt of the written appeal. Parties have fifteen (15) working days to request the next appeal level.

Second Level Appeal:

The unresolved appeal will be presented to the superintendent's manager, in writing (copy to the department representative and the association representative). For fact-finding purposes, the superintendent's manager will arrange a meeting with the department representative and the association representative within fifteen (15) working days of the receipt of written appeal.

The superintendent's manager's written decision is to be rendered within fifteen (15) working days of the close of the meeting(s), with copies to the department's representative and the association's representative.

Parties have fifteen (15) working days to request the next appeal level.

SECTION TWO - DIRECTIVES

Final Level of Appeal:

The appeal will be presented to the Assistant Director for Cooperating Associations, who is responsible for formation of a resolutions panel, and presentation of the panel's recommendations to the director.

The resolutions panel will consist of five members:

Two (2) members (not involved in the appeal) selected by the association.

Two (2) members (not involved in the appeal) selected by department staff.

One (1) member selected by the panel of members listed above (a neutral third party).

The chair will be selected by majority vote of the panel of members listed above.

Copies of the appeal and panel roster will be sent to the department's representative, and the association's representative.

The panel will conduct a hearing within thirty (30) days of receipt of the appeal. The hearing will allow all parties opportunity to present evidence and arguments.

Final Resolution:

A written decision will be rendered by the panel within fifteen (15) working days of the close of the hearing, with copies to all concerned parties. Where appropriate, the panel may recommend changes to the Cooperating Associations Program Manual (CAPM).

A copy of the panel's decision will be forwarded to the director of the State Department of Parks and Recreation, for review and consideration.

The director's (or his/her designee's) decision is final.